



INTERIOR BOARD OF INDIAN APPEALS

Yakima Ridgerunners, Inc. v. Northwest Regional Director, Bureau of Indian Affairs

36 IBIA 311 (09/19/2001)

Related Board case:
44 IBIA 72



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

YAKIMA RIDGERUNNERS, INC.,
Appellant

v.

NORTHWEST REGIONAL DIRECTOR,
BUREAU OF INDIAN AFFAIRS,
Appellee

: Order Affirming Decision in Part,
: Vacating Decision in Part, and
: Remanding Matter to the
: Regional Director
:
:
: Docket No. IBIA 01-122-A
:
: September 19, 2001

This is an appeal from an April 12, 2001, decision of the Northwest Regional Director, Bureau of Indian Affairs (Regional Director; BIA), concerning two rental increases for Lease 5-1-7865-9110, a recreation site lease of Yakama Allotments 955 and 956. The first increase was made in a November 26, 1996, decision of the Superintendent, Yakama Agency, BIA, and the second in a December 1, 2000, decision of the same official. For the reasons discussed below, the Board affirms the Regional Director's decision in part, vacates it in part, and remands this matter to him for further proceedings.

Appellant appealed both the 1996 and 2000 rental increases to the Regional Director in January 2001. The Regional Director dismissed Appellant's appeal of the December 1, 2000, increase as untimely. He declined to consider Appellant's appeal of the November 26, 1996, increase, stating that that decision was final.

On appeal to the Board, Appellant challenges the increase made in the November 26, 1996, decision. He does not dispute the Regional Director's conclusion that his notice of appeal from the December 1, 2000, decision was untimely.

In his answer brief, the Regional Director requests expedited consideration. He seeks affirmance of his decision insofar as he dismissed Appellant's appeal from the Superintendent's December 1, 2000, decision. He seeks remand of all issues concerning the earlier rental increase and states that his intent is to pursue settlement of those issues.

Appellant was given correct appeal information in the December 1, 2000, decision. Among other things, the decision informed Appellant that, if it wished to appeal the decision, its notice of appeal must be mailed within 30 days of the date it received the decision.

The return receipt for certified mail (green card) for Appellant's copy of the December 1, 2000, decision shows that Appellant received the decision on December 5, 2000. Appellant's notice of appeal to the Regional Director is dated January 5, 2001, which is also the postmark date shown on the envelope in which the notice of appeal was mailed. It is thus apparent that Appellant's notice of appeal to the Regional Director was untimely.

Where an appellant is given correct appeal instructions but fails to file a timely notice of appeal, its appeal is properly dismissed. E.g., Blackdeer v. Midwest Regional Director, 35 IBIA 92, recon. denied, 35 IBIA 147 (2000).

Expedited consideration is granted. Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Regional Director's dismissal of Appellant's appeal from the December 1, 2000, decision is affirmed. The remainder of the Regional Director's April 12, 2001, decision is vacated, and the matter is remanded to him for further proceedings.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge